

US DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

DAVID ELLIOT WERKING	)	
an Indiana Resident,	)	
Plaintiff,	)	Case No. 1:19-cv-276
	)	Hon. Paul L. Maloney
vs.	)	
	)	
BETH EILEEN WERKING,	)	
a Michigan Resident, and	)	
PAUL MICHAEL WERKING,	)	
a Michigan Resident	)	
	)	
Defendants.	)	

---

POWERS & GREENGARD  
Attorneys for Plaintiff  
Miles L. Greengard (P76812)  
The Carriage House  
509 Franklin Avenue  
Grand Haven, MI 49417  
(616) 512-5474 (Phone)  
(616) 607-7322 (Fax)  
mgreengard@powersgreengard.com

VANDEBROEK LAW PLLC  
Attorneys for Defendants  
Anne M. VanderBroek (P81541)  
17190 Van Wagoner Rd.  
Spring Lake, MI 49456  
(616) 607-7522 (Phone)  
(616) 682-6109 (Fax)  
anne@vanderbroeklaw.com

---

**Parties' Status Report Per Order of October 9, 2019**

Per the Court's Order of October 9, 2019 (ECF No. 29) staying the proceedings until any criminal investigation is complete, the Parties jointly submit this status report.

On October 11, 2019, Defense counsel turned over all remaining retained material of Plaintiff's property (the "Property") to the Ottawa County Sheriff Department ("OCSD") for investigation into whether the Property was illegal to possess or distribute. (Exhibit A, pp. 4-5.)

Plaintiff's counsel submitted an FOIA to OCSD on December 2, 2019 (Exhibit B). This request was denied on December 9, 2019 as part of an ongoing criminal investigation.

(Exhibit C.) On January 7<sup>th</sup>, 2020, Plaintiff's counsel resubmitted the FOIA request, which was granted on January 13, 2020. (Exhibit D.) OCSD supplied the investigative report requested. (Exhibit A.)

On November 20, 2019, OCSD examined the Property to determine whether it was illegal to possess. (*Id.*, pp. 6-7.) OCSD "did not locate any evidence of child sexually abusive content." (*Id.*, p. 7). There was no further "review [of] this content ... as a search warrant would be needed...no further action needed to be taken." (*Id.*) The investigation was marked "Closed. Insufficient evidence for further investigation." (*Id.*)

Plaintiff's counsel provided Exhibit A to Defense Counsel. On January 15, 2020, Defense counsel submitted her own FOIA request to confirm Plaintiff's Counsel's FOIA request. Defense counsel, through a scrivener's error, entered the wrong report number, re-submitting a previous FOIA request number rather than the incident number, and resubmitted a corrected FOIA request on February 3<sup>rd</sup>, 2020.<sup>1</sup> (Exhibit E.)

Given that there was nothing illegal contained within the Property, and that there are no active criminal proceedings or investigations concerning the property, the parties are prepared to move forward with proceedings at the Court's leisure. Defendant will recover Plaintiff's property from OCSD and deliver to Plaintiff's counsel as soon as reasonably possible.

Respectfully Submitted:

POWERS & GREENGARD  
Attorneys for Plaintiff  
Miles L. Greengard (P76812)

VANDEBROEK LAW PLLC  
Attorneys for Defendants  
Anne M. VanderBroek (P81541)

<sup>1</sup> As only Plaintiff's Counsel's FOIA has been addressed, Defense counsel cannot first hand guarantee the authenticity of Exhibit A. Defense Counsel will supplement this Status Report, via ECF, when she receives a response to her FOIA request.

The Carriage House  
509 Franklin Avenue  
Grand Haven, MI 49417  
(616) 512-5474 (Phone)  
(616) 607-7322 (Fax)  
mgreengard@powersgreengard.com

17190 Van Wagoner Rd.  
Spring Lake, MI 49456  
(616) 607-7522 (Phone)  
(616) 682-6109 (Fax)  
anne@vanderbroeklaw.com

## List of Exhibits

Exhibit A	OCSD Police Report # MI 7017000
Exhibit B	Plaintiff's 12/2/19 FOIA Submission
Exhibit C	Denial of Plaintiff's 12/2/19 FOIA Submission
Exhibit D	Plaintiff's 1/7/20 FOIA Submission
Exhibit E	Defendants' 2/3/20 FOIA Submission

Exhibit A  
OCSD Police Report # MI 7017000



# Case Report Compact



**Print Date/Time:** 01/09/2020 16:01  
**Login ID:** babineca  
**Case Number:** 2019-10090116

**ORI Number:**

Ottawa Co Sheriff's Office  
 MI7017000

## Case Details:

<b>Case Number:</b>	2019-10090116	<b>Incident Type:</b>	Suspicious Activity
<b>Location:</b>	11645 LAKESHORE DR Grand Haven Twp, MI 49417	<b>Occurred From:</b>	10/09/2019 14:56
		<b>Occurred Thru:</b>	10/09/2019 14:57
		<b>Reported Date:</b>	10/09/2019 14:56 Wednesday
<b>Reporting Officer ID:</b>	1153-Sabo	<b>Status:</b>	Closed
	<b>Disposition:</b>	Administrative Closure	<b>Status Date:</b> 10/10/2019
		<b>Disposition Date:</b>	12/23/2019
<b>Assigned Bureau:</b>	Detective Bureau		

## Case Assignments:

Assigned Officer	Assignment Date/Time	Assignment Type	Assigned By Officer	Due Date/Time
713-Cannata	11/19/2019 00:00	Assigned Case - Primary	500-Baum	

## Associated Cases

2018-02230177      **Status:** Closed

## Solvability Factors

DB Review

## Weight

0.000

**Total: 0.000**

## Offenses

No.	Group/ORI	Crime Code	Statute	Description	Counts
1	State	98007	98007	Suspicious Subject/Person	1

## Offense # 1

<b>Group/ORI:</b> State	<b>Crime Code:</b> 98007	<b>Statute:</b> 98007	<b>Counts:</b> 1	<b>Attempt/ Commit Code:</b> Completed
<b>Description:</b>	Suspicious Subject/Person			<b>Offense Date:</b> 10/09/2019
<b>Scene Code:</b>	20 - Residence/Home	<b>Bias/Motivation:</b>	None	
<b>Gang Related:</b> No		<b>IBR Seq. No:</b>	1	

## Offender Suspected of Using

**Alcohol:** No  
**Drugs:** No  
**Computer:** No

## Subjects

Type	No.	Name	Address	Phone	Race	Sex	DOB/Age
Informational	1	Werking, Beth Eileen	[REDACTED]		White	Female	[REDACTED] 67
Informational	2	Werking, Paul Michael	[REDACTED]		White	Male	[REDACTED] 67
Informational	3	Werking, David Elliot	[REDACTED]		White	Male	[REDACTED] 41
Informational	4	Vanderbroek, Anne Marie	[REDACTED]		White	Female	[REDACTED] 32
Police Officer	1	Dobroc 586, Deputy Frank	12220 FILLMORE ST Olive Twp, MI 49460		White	Male	
Police Officer	2	K k 155, Sergeant Jason	12220 FILLMORE ST Olive Twp, MI 49460		White	Male	
Reporting Party	1	Werking, Beth Eileen	[REDACTED]		White	Female	[REDACTED] 67



# Case Report Compact



**Print Date/Time:** 01/09/2020 16:01  
**Login ID:** babineca  
**Case Number:** 2019-10090116

**ORI Number:**

Ottawa Co Sheriff's Office  
 MI7017000

## Arrests

Arrest No.	Name	Address	Date/Time	Type	Age
------------	------	---------	-----------	------	-----

## Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
10/11/2019	Evidence	48 - Documents- Personal/Business			multi page document containing list of property	2019- 10090116	3
10/11/2019	Evidence	27 - Recording Audio/Visual			black thumb drive 16gb PNY	2019- 10090116	2
10/11/2019	Evidence	27 - Recording Audio/Visual			case logic case holding 44 DVDs	2019- 10090116	1

### Seq #3

**Tag Number:** 2019-10090116 **Item Number:** 3  
**Property Codes:** **Property Type:** 48 - Documents-  
Personal/Business **Property Class:** Documents/Pers  
onal or Business **Date Received:** 10/11/2019  
 Evidence

**Description:** multi page document containing list of property

### Seq #2

**Tag Number:** 2019-10090116 **Item Number:** 2  
**Property Codes:** **Property Type:** 27 - Recording  
Audio/Visual **Property Class:** Recordings -  
Audio/Visual **Date Received:** 10/11/2019  
 Evidence

**Description:** black thumb drive 16gb PNY

### Seq #1

**Tag Number:** 2019-10090116 **Item Number:** 1  
**Property Codes:** **Property Type:** 27 - Recording  
Audio/Visual **Property Class:** Recordings -  
Audio/Visual **Date Received:** 10/11/2019  
 Evidence

**Description:** case logic case holding 44 DVDs

## Vehicles

No.	Role	Vehicle Type	Year	Make	Model	Color	License Plate	State
-----	------	--------------	------	------	-------	-------	---------------	-------

Original by Deputy Sabo #1153 10/09/2019 1910090116

Nature: Suspicious

Information: Dispatched to make contact with the caller regarding one of her clients.

Contact w/Caller (Anne Vanderbroek): Anne advised she represents Paul and Beth Werking as they are in a federal case against their son David. She explained that their son is suing them for destroying his pornography collection that was left at their house when he moved out.

Anne advised she was informed by Paul and Beth that they did not destroy all of the porn and kept certain stuff which is currently in a safety deposit box in an unknown location. Anne said they kept these for a "rainy day" in case something like this lawsuit were to happen. Anne said they have not viewed the materials but based on the names and titles on some of the items, she said it is possible it might be child pornography.

Anne wanted to have her clients turn the property over to the Sheriff's Office. I informed her that the Sheriff's Office would place it into evidence. She advised she would contact her clients and have them get the material and meet at her office in Spring Lake. I did not hear back from Anne and eventually called her later that night and she advised she attempted to contact her clients but they did not answer or respond. She advised she would attempt again the next day.

As of 10/10/2019 at the end of my shift, I have not heard from Anne regarding taking possession of this property.

Status: Open - TOT DB



**OfficerID: dobrocf, Narrative**

SUPPLEMENT REPORT BY DOBROC #586. 10-11-19 3700-0  
#1910090116.

Information:

On 10-11-19 at 0955 hrs I was dispatched to a Follow Up.

Caller:

Ann Vandebroek called to say she may get possession of the possible child pornography from her clients today. Ann wanted to know what to do with the evidence. Ann said this is related to a denied MDOP case number 1802230177.

Ann also advised of a pending Federal case number 119-CV-276.

Action:

I advised Ann to call 911 as soon as she obtains the evidence so Police can seize and log into our evidence for D.B. review.

Disp:

Closed.

**OfficerID: kikj, Narrative**

Supplemental report Sgt Kik  
Child pornography  
19 10090116

Information: I was dispatched to Meet with Anne Vanderbroek and her client regarding evidence from a prior complaint. I responded to the law office and met with Vanderbroek and her client Werking.

Werking reported that she and her husband Paul had retained part of the pornography collection their son had left in their home. Vanderbroek provided a list of items from the pending federal lawsuit. Vanderbroek also provided a thumb drive containing a list of DVD's.

Werking gave me a case logic DVD case containing 44 DVD's. The DVD's have not been viewed for content but are suspected to contain child pornography.

All three items have been seized and forwarded to OCSO HQ for analysis.

Disposition: open



OTTAWA COUNTY SHERIFF'S OFFICE  
12-23-19

#19-10 09 0116

**Supplemental by Detective K. Cannata #713**

---

**INFORMATION:**

On 11/20/19 I received a request from D/Sgt. Baum for the forensic analysis of a USB drive and several DVDs. Specifically he requested any evidence of child sexually abusive material be retrieved from the items. D/Sgt. Baum advised that the items had been obtained by consent from Paul and Beth Werking.

Investigation revealed that Paul and Beth Werking's son, David Werking, is suing his parents for destruction of property. In 2018 David Werking reported that his parents destroyed his pornography collection when he moved out of their home. He indicated it was worth approximately \$30,000. This case was denied for any criminal charges (#18-02 23 0177).

Paul and Beth indicated that they kept some of the content in a safety deposit box in case something like this happened. They denied that they ever viewed any of the content that they kept but based on some of the titles on some of the items they stated they believed it might contain child pornography.

**PROPERTY:**

Type: 16GB PNY USB

**FORENSIC EXAMINATION:**

The PNY USB drive was connected to a write blocking device to preserve and acquire the data contained on it. [REDACTED] software was used to acquire the media by creating proprietary forensic image files onto the Forensic drive while preserving the seized media in its original state. The exam was conducted on the exact duplicate image using [REDACTED] software.

A review of the USB drive revealed a folder named "DCIM" which had been created on 4/25/19 and a folder named "black flash drive.zip" which was created on 9/4/19. It appears the folders contain the same contents. It should be noted that dates and times for the files located on the USB are relative to the accuracy of the date/time on the computer in which the files were saved from.

**Media:**

There were 26 image files located in the "DCIM/100PAIO" folder. These images all appear to be scans of email copies and DVD labels. The DVD labels appear to depict pornography based on the titles and photos on the labels. Most of the files had created dates of 4/25/19. I did not locate any evidence of child sexually abusive content on the scanned images of DVD labels.

**Other:**

There were also scanned copies of old emails. One email was dated 1/26/1999 was sent to [REDACTED] and consisted of a typed letter and picture of an adult female. Another email dated 2/12/1999 also appeared to have been sent by an adult female to [REDACTED]





**OTTAWA COUNTY SHERIFF'S OFFICE**  
**12-23-19**

**#19-10 09 0116**

**Supplemental by Detective K. Cannata #713**

---

I located a folder named "DCIM/emails" that appeared to contain emails from 2017 mostly between [REDACTED] and [REDACTED]

I located Excel spreadsheets and text documents that appear to list titles of VHS tapes. It appears the files were saved to the USB on 4/25/19; however, the original document created dates appear to be from 2015.

**DVDs:**

On 12/23/19 I reviewed the DVD labels of the DVDs submitted in a black carry case. The labels all appeared to depict adults. There were titles such as "Mother & Son" and "Brother & Sister", but it appears from the labels that the DVDs most likely depict adult content.

**CONCLUSION:**

I did not locate any evidence of child sexually abusive content on the PNY USB. It appears the content on the USB was created from another source and then saved to the USB drive. It does not appear that this USB drive belonged to the suspect.

I did not locate any evidence of suspected child sexually abusive material on the labels of the DVDs. I did not review this content any further as a search warrant or consent from the owner would be needed. Per D/Sgt Baum, it was decided at this time that no further action needed to be taken.

This information was documented.

**DISPOSITION:**

Closed. Insufficient evidence for further investigation.



Exhibit B  
Plaintiff's 12/2/19 FOIA Submission



# County of Ottawa

## Freedom of Information Act

---

### Michigan Freedom of Information Act Request

Authority: 1976 PA 442, as amended

Your request for copies of non-exempt public information under the Michigan Freedom of Information Act (FOIA) has been submitted.

**Request ID:** 2019-002204705

**Department or Office Retaining Records:** Sheriff's Office

FOIA provides the public body with five (5) business days to respond to the request with a provision for an additional ten (10) days extension, if necessary.

You may be required to reimburse the expenses associated with fulfilling your FOIA request. Labor, photocopying, postage and other charges related to the shipment of the documents will be assessed on actual costs.

**Preferred method of receiving the records:** ☐ Mail ☐ Fax ☒ Electronic ☐ Pick up in Person

**Name:** Miles Greenqard

**Phone:** (616) 350-8760

**Email:** mqgreenqard@powersgreenqard.com

**Fax:**

**Firm/Organization:** Powers & Greenqard

**Address:** 509 Franklin  
Grand Haven MI, 49417

**Description:**

Incident Report # 2019-10090116

Exhibit C  
Denial of Plaintiff's 12/2/19 FOIA Submission



# County of Ottawa

## Freedom of Information Act

---

December 9, 2019

MILES GREENGARD  
509 FRANKLIN  
GRAND HAVEN, MI 49417

RE: Michigan FOIA Response Form 2019-002204705

The following Ottawa County Public Body received your request for public records under the Michigan Freedom of Information Act on the date noted below:

Public Body: County of Ottawa  
Date Received: 12/02/2019  
Mode of Transmission: Electronic

This letter is in response to your Freedom of Information Act (FOIA) request.

The records in the possession of the Ottawa County Sheriff's Office regarding your request pertain to an open report. With regard to the open report, your request under the Freedom of Information Act ("the Act") is denied at this time on the grounds that this incident is open, pending further investigation and release of information will:

- A. Interfere with law enforcement proceedings, and/or
- B. Deprive a person of the right to a fair trial or impartial administrative hearing.

The materials you seek are therefore exempt from disclosure under Section 13(1)(b)(i) and (ii) of the Act, MCL 15.243(1)(b)(i) and (ii).

To the extent that this response is or may be construed as a denial of your request, you have the right to administratively appeal that denial and/or to institute suit to compel disclosure. Those rights, which may, in appropriate instances, include the right to receive attorney's fees and damages for wrongful denial of a request, are detailed in Section 10 of the Freedom of Information Act. A link to Section 10 of the Act is included here for your reference: <http://legislature.mi.gov/doc.aspx?mcl-15-240>.

REBECCA ASHCRAFT  
(616) 738-4867



rashcraft@miottawa.org

Exhibit D  
Plaintiff's 1/7/20 FOIA Submission



# County of Ottawa

## Freedom of Information Act

---

### Michigan Freedom of Information Act Request

Authority: 1976 PA 442, as amended

Your request for copies of non-exempt public information under the Michigan Freedom of Information Act (FOIA) has been submitted.

**Request ID:** 2020-002200084

**Department or Office Retaining Records:** Sheriff's Office

FOIA provides the public body with five (5) business days to respond to the request with a provision for an additional ten (10) days extension, if necessary.

You may be required to reimburse the expenses associated with fulfilling your FOIA request. Labor, photocopying, postage and other charges related to the shipment of the documents will be assessed on actual costs.

**Preferred method of receiving the records:** ☐ Mail ☐ Fax ☒ Electronic ☐ Pick up in Person

**Name:** Miles Greenqard

**Phone:** (616) 350-8760

**Email:** mqgreenqard@powersgreenqard.com

**Fax:**

**Firm/Organization:** Powers & Greenqard

**Address:** 509 Franklin  
Grand Haven MI, 49417

**Description:**

Incident # 2019-10090116

Exhibit E  
Defendants' 2/3/20 FOIA Submission



# County of Ottawa

## Freedom of Information Act

---

### Michigan Freedom of Information Act Request

Authority: 1976 PA 442, as amended

Your request for copies of non-exempt public information under the Michigan Freedom of Information Act (FOIA) has been submitted.

**Request ID:** 2020-002200221

**Department or Office Retaining Records:** Sheriff's Office

FOIA provides the public body with five (5) business days to respond to the request with a provision for an additional ten (10) days extension, if necessary.

You may be required to reimburse the expenses associated with fulfilling your FOIA request. Labor, photocopying, postage and other charges related to the shipment of the documents will be assessed on actual costs.

**Preferred method of receiving the records:** ☐ Mail ☐ Fax ☒ Electronic ☐ Pick up in Person

**Name:** Anne VanderBroek

**Phone:** (616) 607-7522

**Email:** anne@vanderbroeklaw.com

**Fax:** (616) 582-6108

**Firm/Organization:** VanderBroek Law PLLC

**Address:** 17190 Van Wagoner Rd  
Spring Lake MI, 49456

**Description:**

Investigation report/decision on incident number 2019-002204456 for transmission to the Federal Court.

Exhibit E  
Defendants' 2/3/20 FOIA Submission



# County of Ottawa

## Freedom of Information Act

---

### Michigan Freedom of Information Act Request

Authority: 1976 PA 442, as amended

Your request for copies of non-exempt public information under the Michigan Freedom of Information Act (FOIA) has been submitted.

**Request ID:** 2020-002200221

**Department or Office Retaining Records:** Sheriff's Office

FOIA provides the public body with five (5) business days to respond to the request with a provision for an additional ten (10) days extension, if necessary.

You may be required to reimburse the expenses associated with fulfilling your FOIA request. Labor, photocopying, postage and other charges related to the shipment of the documents will be assessed on actual costs.

**Preferred method of receiving the records:** ☐ Mail ☐ Fax ☒ Electronic ☐ Pick up in Person

**Name:** Anne VanderBroek

**Phone:** (616) 607-7522

**Email:** anne@vanderbroeklaw.com

**Fax:** (616) 582-6108

**Firm/Organization:** VanderBroek Law PLLC

**Address:** 17190 Van Wagoner Rd  
Spring Lake MI, 49456

**Description:**

Investigation report/decision on incident number 2019-002204456 for transmission to the Federal Court.